

**REMARKS**

Applicants have amended the specification to correct errors that resulted when the PCT application was prepared. The priority application JP 2004-077342, recites the correct information. All of these errors would be obvious to one skilled in the art and do not constitute new matter. Note that the amendment to recite “heat sealing strength (N/15mm)” is supported by the description paragraph [0034].

Claim 1 is objected to for not ending in a period. Claim 6 has been objected to for not being in proper multiple dependent form. These claims have been amended to correct the errors identified by the Examiner. Accordingly, these objections should be withdrawn. Please note that new claim 10, which depends from claim 3 and corresponds to claim 6, has been added. This amendment does not include any new matter.

Claims 1-4 stand rejected under 35 USC 102(b) as being anticipated by Kenji. This rejection is respectfully traversed.

Claim 1 claims a polyolefin laminate film that “satisfies the following relational formula of a width direction thickness variation rate Y (%) of the aforementioned film and a product takeout width X (mm) of the film:

$$Y \leq 0.001X+4.$$

The Examiner acknowledges that this feature is not explicitly disclosed in Kenji. However, the Examiner states that “Because Kenji discloses a polyolefin laminate film with the same materials and size configuration, as shown in Figure 1 of Kenji, it is inherent for the film of Kenji to have the same width direction thickness variation rate and product takeout width as claimed, which would result in the film of Kenji having the same formula as in claims 1-2.” The Examiner’s assertion that the claimed relation between width direction thickness variation rate and the product takeout rate is inherent is incorrect because this characteristic is not only dependent upon composition and size configuration of the film but is also dependent upon the production method

used to produce the film. Since Kenji does not utilize the same production method utilized in applicants' application that produced this claimed characteristic, this characteristic would not be inherent to the film described in Kenji.

MPEP 2112 provides the requirements for rejections based upon inherency. As discussed in MPEP 2112 "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" MPEP 2112 quoting *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). As discussed in more detail below, since Kenj does not use the same production method used by applicants to produce their polyolefin film, the film in Kenji would not necessarily have the claimed relation between width direction thickness variation rate and the product takeout rate.

As recited in claim 5, and as described in the application, the claimed film is obtained by bringing the unoriented film into close contact with a chill roll by blowing the film at a wind pressure of 700-2200 mm H<sub>2</sub>O with an air knife to force the film into close contact with the chill roll. Kenji does not disclose a film produced using this claim method. Specifically, Kenji only describes a film-forming method in Example 1 of the specification. In Example 1 of Kenji, a package film is formed according to the following method:

- "[0022] (Example 1)
  - (1) sealing layer-forming resin
    - (i) Propylene ethylene butene copolymer (100 weight parts, ethylene content 2.5 mol%, butene content 7 mol%, swell ratio 1.24), inactive particles (SYLYSIA430, manufactured by FUJI SILYSIA CHEMICAL LTD, particle size 2.5 µm, 0.25 weight parts) and an antifogging agent (higher fatty acid monoglycerides, 0.45 weight parts%) were mixed to give a sealing layer-forming resin.
- [0023]
  - (2) base layer-forming resin

(ii) Isotactic polypropylene polymer (100 weight parts, swell ratio 1.31) was mixed" with an antifogging agent (higher fatty acid monoglycerides, 1.0 weight parts) to give a base layerforming resin.

[0024] (3) film-forming

The resins of (i) and (ii) were melted at a weight ratio of 1:9 at a resin temperature of 260°C, and co-extruded from a T-die in a three-layer laminate structure consisting of a seal layer formed on both surfaces of a base layer. After casting on a casting roll at 25°C, the laminate was drawn 4-fold in the longitudinal direction and 9.5-fold in the transverse direction. (emphasis added).

[0025] Then, the surface of the seal layer of the resulting film was subjected to a coronadischarge-treatment to give a package film having three layers of a base layer (18 µm) and a seal layer on one side (1 µm), totaling 20 µm, having a wetting tension of the corona-discharge-treated surface of 39 mN/m."

Accordingly, Kenji merely describes a production in which the film is produced by "casting on a casting roll at 25°C" without adhering the film to the casting roll by blowing the film using an air knife or similar method.

It is known that the thickness in the width direction of a film varies greatly depending on how well the film is adhered to the casting roll during production. This is particularly true for a multilayer laminate film composed of different kinds of polymers that is formed by co-extruding a laminate of two or more layers from a T-die. In this situation, the film-like resins that are co-extruded from the T-die are curved in various directions near the T-die exit due to the differences in the properties of the resins (including the molecular weight, melt viscosity and the like of the respective polymers). This creates insufficient adhesion of the film to the surface of the casting roll resulting in deterioration of the resulting film (e.g., increased thickness spots (thickness variation rate) in the width direction and/or the length direction of the film).

The fact that the films described in Kenji would not inherently possess the claimed relationship between the width direction thickness variation rate and the product takeout rate is illustrated by comparing Examples 1 and 2 with Comparative Example 2, as well as by comparing Examples 3 and 4 with Comparative Example 4, of the present invention. Comparative Examples 2 and 4 describe films that were produced utilizing a wind pressure outside the pressure recited in

claim 5. These comparative examples prove that the wind pressure utilized during production influences the claimed relation between the width direction thickness variation rate and the product takeout rate. Accordingly, Kenji which does not describe adhering the film to the casting roll during production in method utilized by applicants would not inherently produce a film with the claimed characteristics.

More specifically, the polymer compositions and the high-low relationship in the swell ratios of the base layer and the seal layer in Comparative Example 2 are the same as those of Examples 1 and 2. Comparative Example 2 and Examples 1 and 2 also meet the polymer compositions and the high-low relationship in the swell ratios described in Kenji. As described in the specification, the thickness variation rate Y (%) in the width direction of the polyolefin laminate films (product takeout width X=600 mm) of Example 1 and Example 2 are 3.5% and 4.5%, respectively (see Table 1). Accordingly, these two films satisfy the relational expression of X and Y ( $Y \leq 0.001X + 4$ ), which is verified by inserting X=600 to give  $Y \leq 4.6\%$ . In comparison, the polyolefin laminate film (product takeout width X=600 mm) described in Comparative Example 2 produced a thickness variation rate Y (%) in the width direction of 13.8%. When this value is inserted in the relational expression of X and Y ( $Y \leq 0.001X + 4$ ), the obtained value fails to satisfy the claimed relationship  $Y \leq 4.6\%$ . This difference is caused by the fact that Examples 1 and Example 2, were produced using an air knife "at a wind pressure of 1060mm H<sub>2</sub>O" (within the range of the wind pressure of 700-2200 mm H<sub>2</sub>O recited in claim 5, whereas in Comparative Example 2, air was blown "at a wind pressure of 2500 mm H<sub>2</sub>O."

Similar results are observed when comparing Examples 3 and 4 to Comparative Example 4 of the present invention. The thickness variation rate Y (%) in the width direction of the polyolefin laminate films (product takeout width X=6200 mm) described in Example 3 and Example 4 are 6.2% and 7.3%, respectively (see Table 2). Accordingly, these two films satisfy the relational expression of X and Y ( $Y \leq 0.001X + 4$ ), which is verified by inserting X=6200 to give  $Y \leq 10.2\%$ . In

contrast, the polyolefin laminate film (product takeout width X=6200 mm) described in Comparative Example 4 shows a thickness variation rate Y (%) in the width direction of 20.0%. When this value is inserted in the relational expression of X and Y ( $Y \leq 0.001X + 4$ ), the obtained value fails to satisfy  $Y \leq 10.2\%$ .

Accordingly, the examples shows that the claimed relation between width direction thickness variation rate and the product takeout rate is not inherent to the films described in Kenji because this relationship depends not only upon the polymer compositions and the high-low relationship between the swell ratios of the base layer and the seal layer, but is also dependent upon the production method used to produce the film. Since Kenji does not utilize the same production method including the same method of adhering the film to the chill roll during production, this characteristic would not be inherent to the film described in Kenji. Accordingly, the rejection of claim 1 should be withdrawn. The rejections of claims 2-4, which depend from claim 1, should be withdrawn for at least the same reasons.

In view of the above, each of the claims in this application is in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no.

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Respectfully submitted,

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